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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Lee E. Cannon

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04/26/2010

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EXAMINER

WONG, JEFFREY KEITH

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

04/26/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@wavsip.com

Office Action Summary	Application No. 09/864,927	Applicant(s) CANNON ET AL.	
	Examiner Jeffrey K. Wong	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/28/2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34,35,38 and 55-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-35, 38, 55-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Application

1. This Office-Action acknowledges the Amendment filed on 1/28/2010 and is a response to said Amendment.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 34, 38, 58-59, 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres US PUB 2001/0055990 (Acres) in view of Pascal 2003/0130041 (Pascal) and Bennett, US 6/572,471 (Bennett)

Regarding Claim 34, 58

Acres discloses of a slot machine (Abstract) that can have its rate of play changed (Abstract, para 55) in order to change payback percentages (Abstract) because it would be desirable for the casino to set the cost to the player at a higher level during high demand periods and at a lower level, to attract players, during low demand periods(Para 12).

Acres failed to explicitly disclose changing the permitted rate of play to a second permitted rate of play in response to one occurrence of a game outcome. However, Acres teaches of changing the rate of play of a game based on player status. However,

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Acres discloses how the rate of play can be determined based on a player's status which is related to the level of play, wherein the level of play is directly associated with the current rate as well as the rate over a selected time period (para 40). In this case, the rate over a selected time period is determined based on the outcome of the games play and therefore viewed as indirectly encompassing the rate of play changing based on a game outcome.

Acres failed to disclose that the gaming machines can be configured for tournament play.

However, Pascal teaches of a system for playing games of chance, and more particularly to a method and apparatus for allowing a number of players to participate simultaneously in a tournament using a plurality of gaming terminals networked together and under control of a master terminal(para 2) because it would make tournament play more available to all who would enjoy the play, simplify the establishment's monitoring requirements, and reduce overhead expense(para 6).

Acres fails to disclose the tournament being initiated in response to the occurrence of a qualifying outcome of the at least one primary game of chance.

However, Bennett teaches of a slot machine (Col 1, lines 8-10) that has the ability to go into a tournament mode based on the outcome of a primary game (Col 2, lines 33-52 and Col 6, lines 46-50) wherein the qualifying of the at least one primary game of chance is winning the at least one primary game of chance or is based on multiple wins of the at least one primary game of chance (Col 2, lines 33-53. In this case, the special bonus feature of future games is viewed as tournament play) as means of keeping players amused and therefore willing to continue playing (Col 1, lines

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16-17).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the variable slot machine of Acres' invention, with slot machine tournament teachings of Pascal and the primary game qualification teachings of Bennett's invention because it would attract players to the machine during low demand periods as well as reduce overhead expense as taught by Pascal and keep players amused and to continue on playing which will earn the casino more revenue over time as taught by Bennett.

Regarding Claim 38.

Pascal discloses of how the tournament game will revert back to normal after a predetermined period of time.(Abstract)

Regarding Claim 59.

Acres teaches of how the rate of play can be changed based on the time of day (para 42. In this case, the time can be viewed as automatically set.)

Regarding claim 64

Pascal discloses qualifying for play in the tournament game by tendering a wager (Abstract. In this case, the wager is the entry fee)

Claims 35, 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres US PUB 2001/0055990 (Acres) and Pascal 2003/0130041 (Pascal) and Bennett, US

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6,572,471 (Bennett) in view of Giacalone, US 5,758,875 (Giacalone).

Regarding Claim 35

Giacalone teaches of a rate control (Abstract) that can be used to adjust the play speed of a gaming machine such as a slot machine (Col 4, lines 7-25) in order to contribute to the feeling that the player was at least partially in control of the operation of the gaming machine (Col 1, lines 34-36) and delays the onset of boredom and allows the players to play the game at the frequency which is most comfortable to him (Col 2, lines 41-43).

It would have been obvious to incorporate such a teaching with the above invention to give players the feeling that the player was at least partially in control of the operation of the gaming machine which will delay the onset of boredom as taught by Giacalone.

Regarding Claim 55.

Giacalone teaches of how the rate of play can be changed during completion of game play (Col 4, lines 20-25. In this case, the number of plays can be viewed as 1)

Regarding Claims 56-57.

Giacalone teaches of how the rate of play can be increased or decreased (Abstract).

Claims 60-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres US 6,368,218 (Acres) and Pascal 2003/0130041 (Pascal) and Bennett, US 6,572,471 (Bennett) and Giacalone, US 5,758,875 (Giacalone) in view of Angell, Jr. (US 6,368,218 B2).

Regarding Claims 60-62

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Angell teaches the play of a game tournament wherein players are required to play at some minimum rate of play else the game machine will automatically conduct play of the tournament for them so slower inattentive players do not stop the game(Col 4, lines 7-16).

Therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include the automatic minimum rate of play feature of Angell with the combined teachings Acres, Pascal and Bennett as discussed in the rejection of Claim 34 so slower inattentive players do not stop the game as taught by Angell

Regarding Claim 63

Giacalone teaches a dynamic rate control method and apparatus for electronic games of chance which take samples of the rate of play of the gaming device to obtain a standard rate of play and adjust the rate of play accordingly (Col 3, lines14-17).

Giacalone is related to the prior art because it pertains to adjustments of rates of play for electronic gaming machines, therefore it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to obtain a standard rate of play using sampling techniques taught by Giacalone in order to contribute to the feeling that the player was at least partially in control of the operation of the gaming machine (Col 1, lines 34-36) and delays the onset of boredom and allows the players to play the game at the frequency which is most comfortable to him (Col 2, lines 41-43).

It would have been obvious to incorporate such a teaching with the above invention to delay the onset of boredom as taught by Giacalone.

Response to Arguments

Applicant's arguments filed 1/28/2010 have been fully considered but they are not persuasive. Applicant alleges:

"There is absolutely no disclosure in Bennett of initiating a tournament game of chance in a multi-player tournament in response to the occurrence of one or more qualifying outcome events of a primary game of chance."

The Examiner disagrees. Col 6, lines 47-48, states "when the tournament is triggered during play of the base slot game". This is viewed as adequate reasoning to believe that tournament play is triggered as a result of the outcome of a primary game. Bennett does not explicitly disclose what the exact outcome would be that can result in the triggering of tournament play, however, Col 1, lines 56-67 and Col 2, lines 32-53, teaches that players are presented with game image having a plurality of player selectable elements to which said player selectable elements are associated with a prize such as a multiplier, a monetary amount, a jackpot, a physical prize, or a bonus feature or bonus games. In this case, it would be obvious to one of ordinary skill in the art would to realize that it is possible a player selectable element can result in the triggering of tournament play.

"The tournament controller 101 of Bennett determines when tournament play is to start on the gaming machines 100g-100h. Whether this arbitrary or not, it is clear that the controller 101 causes the commencement of tournament play. And this determination is not based on a winning outcome of the base slot game or multiple wins of the base slot

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game. If such was the case, then Bennett' s tournament could not start until there was a winning outcome, for example, of a base slot game on each participating gaming machine 100g-100h." The Examiner disagrees. It is well known to one of ordinary skill in the art that an outcome of a base game can result in a player qualifying for tournament play. Col 6, lines 47-48, discloses tournament play being triggered based on a base slot game, which can be easily interpreted as a player qualifying for play in a tournament based on the outcome of a base game wherein tournament play will be initiated by the controller 101. The Examiner does not believe that the controller 101 decides arbitrarily when to initiate tournament play as the applicants seems to believe. While Bennett seems to be silent on exactly what outcome would result in the triggering of tournament play, it is more likely that such a trigger would be a result of a primary game's outcome than that of an arbitrary decision. This is because the reference discloses about player selectable elements and prizes and features associated with such selections. It is reasonable to believe that the triggering of tournament play would coincide with the scope of the invention, the selection of player selectable elements and their associated awards. To further elaborate, the passage "when the tournament is triggered during play of the base slot game" makes for a strong interpretation to one of ordinary skill in the art to believe that an outcome of a base slot game would result in the triggering of tournament play.

"Unlike Applicants' claimed invention, Acres does not change the permitted rate of game play of a tournament game in response to an occurrence of a specific game outcome which may occur during play of the tournament game. Instead, in Acres, the

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game speed of a primary game is changed "in accordance with the demand on the casino floor." (0012). That is, the game speed is increased and the payback percentage decreased during high demand periods. (Id). The Office Action stated that "Acres teaches in paragraph 52 that the rate of play can be changed as a result of a specific outcome." (Office Action, page 8). However, this disclosure of Acres relates to bonus payments and not to tournament play. Moreover, this disclosure is not directed to increasing the rate of play to provide a "turbocharged" version of a tournament game."

The Examiner disagrees. Paragraph 55 teaches "another configuration parameter comprises game speed. With respect to an electronic slot machine, the game speed is the time it takes from start of reel rotation until the reels stop spinning. With respect to electronic poker, the time relates to how fast the cards are "dealt," i.e., how rapidly they appear on the video monitor display. As discussed above, game speed, along with payback percentage and accrual of wagers in a bonus pool influence the net cost to the player per unit time for playing the casino games. Game speed is therefore one of the configuration parameters that may be changed in response to commands issued over the computer network in response to a predetermined criterion for one of the monitored variables." In this case, it is obvious that the rate of play, the game speed, can be changed. While Acres does not explicitly disclose that the game speed can be changed in regards to tournament game play, it is obvious that changing game speed can be applied to tournament play because changing the speed in which a game can be played can generate player excitement as well as change the rate in which casinos can make money. For instance, by increasing the speed in which a game can be played, that can result in a decrease in the length of which it is to be played before a player

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would need to place another wager. A decrease in the length in which a player would need to wager to continue playing would result in more profits for a casino because the player would be spending more money in a shorter period of time.

Also, the claimed invention does not disclose "providing a "turbocharged" version of a tournament game." as presented in the argument. The rate of play has not been defined to a degree that one can view that it can result in a 'turbocharged' version of tournament play.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey K. Wong whose telephone number is (571)270-3003. The examiner can normally be reached on M-Th 8:30am-7:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571)272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/
Primary Examiner, Art Unit 3714

JKW